

BMO HARRIS BANK, N.A., ) Case No.: 1:24-cv-0740 JLT HBK  
 )  
 Plaintiff, )  
 ) ORDER ADOPTING FINDINGS AND  
 v. ) RECOMMENDATIONS IN PART, GRANTING  
 ) PLAINTIFF'S MOTION FOR DEFAULT  
 MAJOR SINGH, ) JUDGMENT IN PART, AND DIRECTING THE  
 ) CLERK OF COURT TO CLOSE THE CASE  
 )  
 Defendant. ) (Docs. 10, 15)  
 )  
 )

The magistrate judge found the Court has diversity jurisdiction over the claims presented and personal jurisdiction over Defendant. (Doc. 15 at 4-5.) The magistrate judge also determined Plaintiff complied with the service requirements under Rule 4 of the Federal Rules of Civil Procedure. (*Id.* at 5-6.) Examining the sufficiency of the complaint, the magistrate judge found Plaintiff alleged sufficient facts to state a claim for breach of contract against Defendant and “submits evidence in support of its damages.” (*Id.* at 7.) The magistrate judge determined the factors identified by the Ninth Circuit in *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986) weighed in favor of default judgment and recommended the motion be granted, with damages

1 awarded in the amount of \$92,936.22.<sup>1</sup> (*Id.* at 6-9.)

2 The magistrate judge found Plaintiff is also entitled to an award of attorney fees and costs.  
3 (Doc. 15 at 10.) The magistrate judge found the requested hourly rate of \$325 was reasonable  
4 based upon the experience of counsel. (*Id.*) In addition, the magistrate judge observed:  
5 “According to the declaration of Attorney Ito and the corresponding invoice, Attorney Ito  
6 expended 8.40 hours of work in relation to this matter until August 16, 2024.” (*Id.* at 11.) The  
7 magistrate judge noted Mr. Ito anticipated that it would “take at least 3 hours at a rate of \$325” to  
8 complete the motion for default judgment, excluding any appearance at a hearing on the motion.  
9 (*Id.*) Because the Court vacated the hearing, the magistrate judge found it was not necessary to  
10 deduct the 3 hours that were anticipated from the fee award. (*Id.*) The magistrate judge found  
11 “the amount of \$3,152.00 for 12.4 hours of work by Attorney Ito at a rate of \$325.00 per hour to  
12 be reasonable.” (*Id.*) Therefore, the magistrate judge recommended the requested fees in the  
13 amount of \$3,152.00 be awarded. (*Id.*) In addition, the magistrate judge found costs in the  
14 amount of \$504.68—which included \$405.00 for the court filing fee and \$99.68 for service of  
15 process—were reasonable and recommended they be awarded. (*Id.*)

16 The Court served the Findings and Recommendations on Plaintiff and notified the parties  
17 that any objections were due within 14 days after service. (Doc. 15 at 12.) The Court advised  
18 Plaintiff that the “failure to file objections within the specified time may result in the waiver of  
19 rights on appeal.” (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).)  
20 Plaintiff did not file objections, and the deadline for doing so has passed.

21 According to 28 U.S.C. § 636 (b)(1), this Court performed a *de novo* review of this case.  
22 Having carefully reviewed the entire matter, the Court concludes findings related to the Court’s  
23 jurisdiction, Plaintiff’s service of the complaint, and the *Eitel* factors are supported by the record  
24 and proper analysis. Accordingly, the Court adopts the recommendation that Plaintiff be awarded  
25 monetary damages in the amount of \$92,936.22. However, Plaintiff’s request for attorney’s fees  
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27 <sup>1</sup> It appears there was a scrivener’s error in the conclusion of the Findings and Recommendations regarding  
28 the damages to be awarded. However, the analysis correctly indicates the damages total is \$92,936.22.  
(*See* Doc. 15 at 9.)

1 in the amount of \$3,152.50 is not supported by the record.

2 A fee applicant must provide time records documenting the tasks completed and the  
3 amount of time spent on the action. *Hensley v. Eckerhart*, 461 U.S. 424, 424(1983); *Welch v.*  
4 *Metropolitan Life Ins. Co.*, 480 F.3d 942, 945-46 (9th Cir. 2007). Plaintiff's records indicate that  
5 counsel expended 6.4 hours on this action through August 16, 2024. (Doc. 12 at 5-8.) For this  
6 time, the submitted records indicate the fees total \$2,080.00. (*Id.* at 8.) The 8.4 total on the chart  
7 referenced by the magistrate judge relates to firm *units*—not simply billed hours—and includes  
8 1.0 unit at the rate of \$405.00 (for the filing fee) and 1.0 unit at the rate of \$99.68 (for service), as  
9 well as the 6.4 units at the rate of \$325 (for hours worked). (*Id.* at 5, 8.) The billing records  
10 indicate the total for the 8.4 units is \$2,584.68. (*Id.* at 8.) Although Mr. Ito anticipated 3  
11 additional hours related to the pending motion (Doc. 12 at 3, ¶ 7), there is no evidence to support  
12 this estimate. The Court declines to speculate as to time related to this motion simply because  
13 Plaintiff elected to not submit billing records through the motion's filing date of September 26,  
14 2024. Instead, the fee award is limited to the established 6.4 hours, which was reasonable for the  
15 tasks completed. (*See* Doc. 12 at 5-8.) Applying the requested hourly rate of \$325, which the  
16 Court agrees is reasonable here, Plaintiff is entitled to the modified fee award of \$2,080.

17 Based upon the foregoing, the Court **ORDERS**:

- 18 1. The Findings and Recommendations issued October 31, 2024 (Doc. 15) are  
19 **ADOPTED** in part.
- 20 2. Plaintiff's motion for default judgment (Doc. 10) is **GRANTED** in part.
- 21 3. Plaintiff is **AWARDED** monetary damages in the amount of **\$92,936.22**.
- 22 4. Plaintiff is **AWARDED** interest at the contracted daily rate of \$39.36 for each day  
23 after September 12, 2024.
- 24 5. Plaintiff's request for fees and costs is **GRANTED**, in the modified amount of  
25 \$2,080.00 in attorney fees and \$504.68 in costs, for a total of **\$2,584.68**.
- 26 6. Upon recovery and sale of the identified vehicle in a commercially reasonable  
27 manner, Plaintiff **SHALL** credit the net sale proceeds of the vehicle toward the  
28 monetary judgment awarded herein.

1           7.       The Clerk of Court is directed to enter judgment in favor of Plaintiff BMO Harris  
2                   Bank, N.A. and against Defendant Major Singh, and to close this case.

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4       IT IS SO ORDERED.

5       Dated: November 20, 2024

  
UNITED STATES DISTRICT JUDGE